

entities from having to share the costs of premiums paid by PCS licensees who need early relocation.

Most importantly, designated entities have much to gain from establishment of a reasonable cost sharing program because they will probably find themselves in relocation situations involving multiple PCS providers more often than some other licensees. Microwave link paths will more frequently cut across the smaller geographic areas covered by the BTA licenses available to designated entities than the larger MTA boundaries. As a result, such links will be more likely to have endpoints in different BTAs than they will be to have endpoints in different MTAs. Absent some mechanism to facilitate agreement over the splitting of relocation costs, designated entities could be faced with a morass of competing claims, with the resulting inertia a cause for substantial delays in the initiation of service.

#### **4. UTAM, Inc.**

UTAM, Inc. will similarly benefit from a cost sharing plan which encourages early relocations. As microwave links are relocated, more coordinatable unlicensed devices and systems can be deployed and the sooner nomadic devices will be deployable. This will give UTAM, Inc. the revenue needed to pay its cost sharing obligations and to relocate other links in the unlicensed band.

\* \* \*

It follows that all PCS interests benefit from rapid clearing of microwave operations from the PCS band and, accordingly, a cost sharing proposal which facilitates this process should be welcomed by all such parties.

## **VI. CONCLUSION**

PCIA's cost sharing proposal combines the best elements of its original plan and that submitted by Pacific Bell. A cost sharing mechanism based on the principles put forth by PCIA will benefit all facets of the PCS industry and the microwave incumbents. It will also reduce overall administrative costs, minimize the FCC's oversight role, and encourage PCS providers to move quickly to relocate microwave licensees and deploy their PCS systems, thus bringing new and exciting services to the public in the shortest possible time.

For all of these reasons, the PCS industry has coalesced in broad support for the establishment of sound cost sharing requirements. Accordingly, PCIA and the numerous signatories below urge the Commission to initiate a rulemaking and adopt cost sharing requirements as detailed herein.

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## APPENDIX

### AMENDMENT TO PART 24

**Microwave Relocation Cost Sharing Plan.** Broadband PCS licensees and UTAM, Inc. (hereinafter "PCS providers) are required to participate in an industry plan to equitably share the costs of microwave relocation. A PCS provider that relocates a microwave link is entitled to reimbursement from any other PCS provider(s) that benefits from the relocation of the link. Whether a PCS provider benefits from a particular microwave link relocation will be determined in the following manner:

- (a) Section 94.63 states the interference criteria for private fixed microwave licensees. The PCS provider relocating the microwave link acquires the interference right for that link and is registered as such in the FCC database.
- (b) Whenever another PCS provider determines as part of the prior coordination process required by Section 24.237 or by another industry accepted standard that it would have interfered with the link had it not been relocated, it must reimburse the holder of the interference rights and any other PCS providers that have provided reimbursement to the holder of the interference rights in equal shares. Cost sharing will be required only for co-channel microwave links having endpoints within a PCS entity's authorized operating territory. Co-channel links are defined as those with an overlap of licensed occupied bandwidth. PCS providers are not required to make reimbursement payments for interference that may have been caused to links licensed to operate on frequencies adjacent to the PCS provider's licensed spectrum.
- (c) The amount of reimbursement required can be mutually agreed upon by the parties or determined by the following formula:

$$R_N = \frac{C}{N} \times \frac{120 - (T_N - T_1)}{120}$$

where  $R_N$  is the amount of reimbursement;  $C$  equals the total amount to relocate system or \$250,000 (or \$400,000 if the replacement system requires a new tower), whichever is less;  $N$  is the number of interfering PCS providers;  $T_N$  equals the number of the month (1 - 120) that a PCS provider places his system in service; and  $T_1$  is the month that the first PCS provider placed his system in service.

- (d) If the holder of the interference rights to a link will never initiate service that would have interfered with the link (e.g., an entire microwave network is relocated but the holder of the interference rights does not have a license for the territory or frequencies corresponding with some links in that network), the PCS provider who first provides service will interfere with the link must reimburse the provider that relocated the system for 100% of the cost paid to relocate the link or \$250,000 (or \$400,000 if the replacement system requires a new tower), whichever is less. The reimbursing PCS provider then acquires the interference rights to that link and is entitled to all subsequent reimbursement as described in (b).
- (e) Designated entity PCS providers (as defined in Section 24.709) and UTAM, Inc. (as defined in Section 15.307) are entitled to make their reimbursement payments in installments.
- (f) A designated clearinghouse will require periodic interference analyses from PCS providers and maintain the microwave relocation cost records. Responses to interference inquiries must be received by the clearinghouse within 30 days of issue. Access to all records is limited to PCS providers that determine as part of the prior coordination process that they would have interfered with a microwave link but for its prior relocation. The clearinghouse will attempt to resolve any disputes arising among PCS providers.
- (g) PCS providers are encouraged to use Alternative Dispute Resolution pursuant to Section 1.18 of the Commission's Rules to settle any disputes not resolved by the clearinghouse. The FCC will consider any unresolved complaints regarding reimbursement claims by PCS providers as part of the license renewal process.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of June, 1995, I caused copies of the foregoing "Comments of the Personal Communications Industry Association" to be served upon the following:

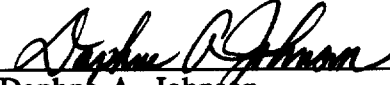
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